

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA
MARTINSBURG**

MENGYANG LI

Plaintiff,

v.

**CIVIL ACTION NO.: 3:19-cv-216
(GROH)**

SHEPHERD UNIVERSITY,

Defendant.

ORDER FROM JANUARY 4, 2023 PRE-JUDGMENT HEARING

The Court convened a hearing on Shepherd University's Counterclaim for Detinue on January 4, 2023 pursuant to West Virginia Code section 55-6-1. The Plaintiff, Mengyang Li, appeared in person, pro se. Shepherd University appeared by its counsel, Tracey B. Eberling, and by its representative, K. Alan Perdue, its General Counsel. The Court notes that it received, reviewed and has docketed Plaintiff's Response to Defendant's Counterclaim for Detinue and Plaintiff's Under Oath and Documented Claims for Defendant Illegally Searching Plaintiff's Personal Items, For Detinue and Plaintiff's Request for Court to Order to Preserve Evidence, Prevent Evidence Tampering and Witness Tampering.

The Court finds that Shepherd University has a right to immediate possession of the Dell Latitude computer 15 (5500) model, serial # F7BC533, SU Tag # 052141 and the Wacom Tablet, SU Tag #052263 issued to Plaintiff. The Court inquired of the Plaintiff and determined that the Plaintiff did not bring said items to the hearing and that they were not readily capable of being retrieved at the direction of the Court. The Court observed that Plaintiff has personal items that remain on the premises of Shepherd University and that Shepherd University proffered that it is ready to turn those items over to the Plaintiff. Those items include personal memorabilia, books,

research, and materials related to Plaintiff's grievances and litigation. The Court rejects the request of the Plaintiff for the student records that had been located in his office and finds that the Plaintiff is not entitled to student records at this time as they are protected by the Family Educational Rights and Privacy Act. Shepherd University agrees to and is hereby Ordered to segregate and preserve all student records that were located in Plaintiff's office. Plaintiff was advised that he was free to pursue the student records or a list of the student records in the course of discovery.

The Court further ordered that Plaintiff is to appear at Shepherd University's Human Resources office on **Friday, January 6, 2023 at 9:00 a.m.** and to produce the above-referenced laptop computer and the tablet that had been issued to him, together with any other items owned by Shepherd University, including but not limited to the keys held by the Plaintiff. At that date and time, Plaintiff will be escorted by Shepherd University Police to the location where his personal items are located so that the items can be removed under supervision. It is noted that the removal may take more than one trip and that the Plaintiff is ordered to make as many trips as necessary to remove his personal items on that date. Shepherd University is encouraged to make an inventory of the Plaintiff's personal items.

The Court directs the parties to notify the Court if a further hearing or action is needed to facilitate the return of Shepherd University's property or the removal of the Plaintiff's personal items from its campus. As to Plaintiff's demand that Shepherd University be ordered to preserve evidence, prevent evidence tampering and witness tampering, the Court refused to issue such an order and noted that Shepherd University and its counsel are under a legal obligation to preserve and not interfere with evidence and witnesses. The Plaintiff was encouraged to retain counsel to represent his interests in this litigation.

Finally, the Court advised the Plaintiff that Magistrate Judge Trumble had denied the Plaintiff's request to postpone the January 10, 2023 mediation. The parties are expected to appear for mediation on said date at 9:30 a.m. as previously ordered and to comply with all aspects of Judge Trumble's December 12, 2022 order. The exceptions and objections of the parties to any adverse rulings are hereby preserved.

Entered this _____ day of _____, 2020.

Honorable Gina M. Groh

Prepared by:

/s/ Tracey B. Eberling

Tracey B. Eberling (WVSB#6306)
Steptoe & Johnson PLLC
1250 Edwin Miller Blvd., Suite 300
Martinsburg, WV 25404
(304) 262-3532

IN THE CIRCUIT COURT OF JEFFERSON COUNTY, WEST VIRGINIA

MENGYANG LI,

Plaintiff,

v.

Civil Action No. 19-C-102
Judge Debra McLaughlin

SHEPHERD UNIVERSITY,
PRESIDENT'S OFFICE,

Defendants.

CERTIFICATE OF SERVICE

I hereby certify that on the 4th day of January 2023, I filed the foregoing proposed ***“Order From January 4, 2023 Pre-Judgment Hearing”*** with the Clerk of Court using CM/ECF. I further certify that on the 3rd day of January 2023, I forwarded a true copy of ***“Order From January 4, 2023 Pre-Judgment Hearing”*** to the below-named pro se Plaintiff via certified U.S. mail, return receipt requested and email transmission with receipt and read receipts requested.

Mengyang Li
12 Turkey Tract Place
Keedysville, MD 21756
301-432-5727
Mengyang.Li@hotmail.com

/s/ Tracey B. Eberling
Tracey B. Eberling (WV Bar # 6306)
Steptoe & Johnson PLLC
1250 Edwin Miller Blvd., Suite 300
Martinsburg, WV 25402-2629
(304) 263-6991
tracey.eberling@steptoe-johnson.com